



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,733	02/05/2004	Kyung-Ho Yoon	04-156	8603

34704 7590 10/23/2007
BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

EXAMINER

MONDT, JOHANNES P

ART UNIT	PAPER NUMBER
----------	--------------

3663

MAIL DATE	DELIVERY MODE
-----------	---------------

10/23/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/773,733	Applicant(s) YOON ET AL.	
	Examiner Johannes P. Mondt	Art Unit 3663	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 9-16.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Primary Patent Examiner:
 (10/22/07)
Johannes Mondt (Art Unit: 3663)

Continuation of 3. NOTE: The proposed amendments to independent claim 9 are deemed substantial for reasons further explained under 11 below. In particular, "extending between" and "extending from" are two substantially different statements, and so are "contact" and "contact in rest position". The specification as originally claimed does not even disclose "contact in rest position" as now claimed, and hence the proposed amendment constitutes new matter. A fortiori then, the proposed amendments cannot possibly be deemed to place the application in better condition for allowance. *[Signature]*

Continuation of 11. does NOT place the application in condition for allowance because: While compliance on petitionable matter including Drawing objections, and objection to the Specification and to the claims for minor informalities is appreciated, applicant's arguments on Oh et al fail to persuade: Oh et al specifically teach the line contact to 'uniformly distribute its spring force on the fuel rods' through said line contacts. See abstract of Oh et al. This is fully in parallel with the quoted teaching in [0035] of applicant's specification. Counter to applicant's view that the amendment to claim 9 "in a rest position" is both non-substantial and distinguishing over the prior art is (1) self-contradictory, because any amendment that effects a distinction with the prior art necessarily is substantial, (2) based on a cursory examination, - which is all that examiner is allowed to perform in response to a filing under 37 C.F.R. 1.116, ineffective to establish a distinction as alleged, because the fuel rods are resting in the spacer grid, and (3) not supported by the specification as originally filed, in which the support has not been specifically disclosed to be effected in a rest position. Entering the amendment would thus introduce new matter, and furthermore would not distinguish over the prior art as cited in the form of Oh et al.

With regard to applicant's arguments in section 4 on claims 9-10, in particular on an alleged distinction with the prior art on the "vertical support part" at least by the limitation as amended, examiner concludes from Delafosse, Figure 5 as cited, for said vertical support part 14 that it extends central portions of top and bottom edges from the opening in 2a or 3a (see also 12 in Figure 5 indicative of the existence of edge portions of the openings to the side of 14). Furthermore, said amendment, changing the vertical support part not to be merely extending "between" but now by amendment to be extending "from" the claimed central portions of top and bottom edges of the vertical opening does substantially narrow the claim and hence is a substantial amendment. Finally on this matter, that as applicant alleges the "bearing arms of Delafosse are not "supported" by both edges of the vertical opening is a new issue not reflected in the claim language even in the amendment, while a cursory examination, - which is all examiner is allowed to perform within the context of a filing under 37 C.F.R. 1.116, the proposed claim limitation may apparently be met by Delafosse in view of the attachment of 14 to said edges. With regard to applicant's traverse of the rejections of claims 15-16, examiner respectfully disagrees with applicant's interpretation of "structural" difference as not being met by a difference in material constitution because the arrangements of the particles in materially different objects differ.

For the above reasons the rejections in the Final Office Action are still deemed proper. Because, as explained above, the proposed amendments to the claim language is substantial, the amendment cannot be entered as new issues would have to be considered, requiring more than a mere cursory further consideration. *[Signature]*